KA / BG-GPO/2515/WPP-47/2006-2008



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೩	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಜುಲೈ ೩, ೨೦೦೮ (ಆಷಾಢ ೧೨, ಶಕ ವರ್ಷ ೧೯೩೦)	ಸಂಚಿಕೆ ೨೭

ಭಾಗ–೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 8 ಕೇಶಾಪ್ರ 2008 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 20ನೇ ಫೆಬ್ರವರಿ 2008

2008ನೇ ಸಾಲಿನ ಜನವರಿ 31ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Railways (Amendment) Ordinance, 2008 (Ordinance No. 2 of 2008) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 31st January 2008/Magha 11, 1929 (Saka)

THE RAILWAYS (AMENDMENT) ORDINANCE, 2008

No. 2 OF 2008

Promulgated by the President in the Fifty-ninth Year of the Republic of India.

An Ordinance further to amend the Railways Act, 1989.

WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for her to take immediate action.

NOW THEREFORE, in exercise of the powers conferred by clause

1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. Short title and commencement : (1) This Ordinance may be called the Railways (Amendment) Ordinance, 2008

(2) It shall come into force at once.

2. Amendment of section 2 : In section 2 of the Railways Act, 1989 (24 of 1989) (hereinafter referred to as the principal Act),

(a) after clause (7), the following clause shall be inserted, namely:

`(7A) "competent authority" means any person authorised by the Central Government, by notification, to perform the functions of the competent authority for such area as may be specified in the notification",

(b) after clause (29), the following clause shall be inserted, namely:

(29A) "person interested" includes,

(i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);

(iii) a person interested in an easement affecting the land; and

(iv) persons having tenancy rights under the relevant State laws;

(c) after clause (37), the following clause shall be inserted namely:

(37A) "special railway project" means a project, notified as such by the Central Government from time to time, for providing national infrastructure for a public purpose in a specified time-frame, covering one or more States or the Union territories;,

3. Insertion of new Chapter IVA : After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:

CHAPTER IVA

LAND ACQUISITION FOR A SPECIAL RAILWAY PROJECT

20A. Power to acquire land etc: (1) Where the Central Government is satisfied that for a public purpose any land is required for execution of a special railway project, it may, by notification, declare its intention to acquire such land.

(2) Every notification under sub-section (1), shall give a brief description of the land and of the special railway project for which the land is intended to be acquired.

(3) The State Government or the Union territory, as the case may be, shall for the purposes of this section, provided the details of the land records to the competent authority, whenever required.

(4) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which shall be in a vernacular language.

20B. Power to enter for survey, etc : On the issue of a notification under sub-section (1) of section 20A,it shall be lawful for any person, authorised by the competent authority in this behalf, to-

(a) make any inspection, survey, measurement, valuation or enquiry;

(b) take levels;

(c) dig or bore into sub-soil;

(d) set out boundaries and intended lines of work;

(e) mark such levels, boundaries and lines placing marks and cutting trenches; or

(f) do such other acts or things as may be considered necessary by the competent authority.

20C. Evaluation of damages during survey. measurement, etc : The damages caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence or forest or doing such other acts or things which may

cause damages while acting under section 20B particularly relating to land which is excluded from acquisition proceeding, shall be evaluated and compensation shall be paid to the persons having interest in that land, within six months from the completion of the said works.

20D. Hearing of objections, etc: (1) Any person interested in the land may, within a period of thirty days from the date of publication of the notification under sub-section (1) of section 20A, object to the acquisition of land for the purpose mentioned in that sub-section.

(2) Every objection under sub-section (1), shall be made to the competent authority in writing, and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation : For the purposes of this sub-section "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961. (25 of 1961)

(3) Any order made by the competent authority under sub-section (2) shall be final.

20E. Declaration of acquisition : (1) Where no objection under sub-section (1) of section 20D has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, the competent authority shall, as soon as may be submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification, that the land should be acquired for the purpose mentioned in sub-section (1) of section 20A.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 20A for its acquisition, but no declaration under sub-section (1) of this section has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect;

Provided that in computing the said period of one year, the period during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 20A is stayed by an order of a court shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.

20F. Determination of amount payable as compensation : (1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) The competent authority shall make an award under this section with a period of one year from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that the competent authority may, after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing he may make the award within an extended period of six months:

Provided further that where an award is made within the extended period, the entitled person shall, in the interest of justice, be paid an additional compensation for the delay in making of the award, every month for the period so extended, at the rate of not less than five per cent, of the value of the award, for each month of such delay.

(3) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition, an amount calculated at ten per cent. of the amount determined under sub-section (1) for that land.

(4) Before proceeding to determine the amount under sub-section (1) or sub-section (3), as the case may be, the competent authority shall give a public notice published in two local newspapers, one of which shall be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(5) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 20D, before the competent authority, at a time and place and to state the nature of their, respective interest in such land.

(6) If the amount determined by the competent authority under sub-section (1) or as the case may be sub-section (3) is not acceptable to either of the parties, the amount shall on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government in such manner as may be prescribed.

(7) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act,1996 (26 of 1996) shall apply to every arbitration under this Act.

(8) The competent authority or the abritrator while determining the amount of compensation under sub-section (1) or sub-section (6), as the case may be, shall take into consideration-

(a) the market value of the land on the date of publication of the notification under section 20A;

(b) the damage, if any substained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land,

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

(9) In addition to the market-value of the land as above provided, the competent authority or the arbitrator, as the case may be, shall in every case award a sum of sixty per centum on such market-value, in consideration of the compulsory nature of the acquisition.

20G. Criterion for determination of market value of land : (1) The competent authority shall adopt the following criteria in assessing and determining the market value of the land,

(i) the minimum land value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds in the area, where the land is situated; or

(ii) the average of the sale price for similar type of land situated in the village or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years, where higher price has been paid;

whichever is higher

(2) Where the provisions of sub-section (1) are not applicable for the reason that;

(i) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(ii) the registered sale deeds for similar land as mentioned in clause (i) of sub-section (1) are not available for the preceding three years; or

(iii) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority,

the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years where higher price has been paid, and the competent authority may calculate the value of the land accordingly.

(3) The competent authority shall, before assessing and determining the market value of the land being acquired under this Act,-

(a) ascertain the intended land use category of such land;

and

(b) take into account the value of the land of the intended category in the adjoining areas or vicinity,

for the purpose of determination of the market value of the land being acquired.

(4) In determining the market value of the building and other immovable property or assets attached to the land or building which are to be acquired, the competent authority may use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by the competent authority.

(5) The competent authority may, for the purpose of determining the value of trees and plants, use the services of experienced persons in the field of agriculture forestry, horticulture, sericulture, or any other field, as may be considered necessary by him.

(6) For the purpose of assessing the value of the standing crops damaged during the process of land acquisition proceedings, the competent authority may utilise the services of experienced persons in the field of agriculture as he considers necessary.

20H. Deposit and payment of amount : (1) The amount determined under section 20F shall be deposited by the Central Government, in such manner as may be prescribed by that Government with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1) the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 20F by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. Per annum on such excess amount from the date of taking possession under section 20-I till the date of actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government, in such manner as may be prescribed by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

20-I Power to take Possession : (1) Where any land has vested in the Central Government under sub-section (2) of section 20E,and the amount determined by the competent authority under section 20F with respect to such land has been deposited under sub-section (1) of section 20H with the competent authority by the Central Government, the competent authority may, by notice in writing, direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within a period of sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply-

(a) in case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a district,

and such Commissioner or Collector, as the case may be shall, enforce the surrender of the land, to the competent authority or to the person duly authorised by it.

20J. Right to enter into land where land has vested in Central Government: Where the land has vested in the Central Government under section 20E, it shall be lawful for any person authorised by the Central Government in this behalf, to enter and do other act necessary upon the land for carrying out the building maintenance, management or operation of the special railway project or part thereof or any other work connected therewith.

20K. Competent authority to have certain powers of civil court : The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commission for examination of witnesses.

20L. Utilisation of land for the purpose it is acquired : The land acquired under this Act shall not be transferred to any other purpose except for a public purpose, and after obtaining the prior approval of the Central Government.

(2) When any land or part thereof, acquired under this Act remains unutilized for a period of five years from the date of taking over the possession, the same shall return to the Central Government by reversion.

20M. Sharing with landowners the difference in price of a land when transferred for a higher consideration : Whenever any land acquired under this Act is transferred to any person for a consideration eighty per cent. of the difference in the acquisition cost and the consideration received, which in no case shall be less than the acquisition cost, shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired, and for the purpose, a separate fund may be maintained which shall be administered by the competent authority in such manner as may be prescribed by the Central Government.

20N. Land Acquisition Act 1 of 1894 not to apply: Nothing in the Land Acquisition Act, 1894 shall apply to an acquisition under this Act.

20-O Application of the National Rehabilitation and Resettlement Policy, 2007 to persons affected due to land acquisition : The provisions of the National Rehabilitation and Resettlement Policy, 2007 for project affected families, notified by the Government of India in the Ministry of Rural Development vide number F. 26011/4/2007-LRD, dated the 31st October, 2007 shall apply in respect of acquisition of land by the Central Government under this Act.

20P Power to make rules in respect of matters in this Chapter : (1) The Central Government may by notification make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing, power, such rules may provide for all or any of the following, matters, namely:

(a) the manner of appointment of arbitrator under sub-section (6) of section 20F;

(b) the manner in which the amount shall be deposited with the competent authority under sub-section (1) and (6) of section 20H;

(c) the manner of maintenance and administration of separate fund for the purposes of section 20M;

PRATIBHA DEVISINGH PATIL,
President

K.D. SINGH
Secy to the Govt. of India

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಪಿ.ಆರ್. 13

ಆರ್. ಆಂಜಿನಿ
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 14 ಕೇನಿಪ್ರ 2008 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15ನೇ ಮಾರ್ಚ್ 2008

2008ನೇ ಸಾಲಿನ ಫೆಬ್ರವರಿ 13ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(i)ರಲ್ಲಿ ಪ್ರಕಟವಾದ GSR 87(E) (Notification No.F.No. 31-10-2006-NDM-II) ದಿನಾಂಕ:13.2.2008 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 13th February, 2008

G.S.R. 87 (E) : In exercise of the powers conferred by clause (f) of sub-section (2) read with sub-section (1) of Section 75 of the Disaster Management Act, 2005 (53 of 2005), the Central Government hereby makes the following rules, namely:

1. Short title and commencement : (1) These rules may be called the Disaster Management (National Disaster Response Force) Rules, 2008.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definations : (1) In these rules, unless the context otherwise requires,

(a) "Act" means the Disaster Management Act, 2005 (53 of 2005);

(b) "battalion" means a unit of the Central Para Military Force earmarked by that Force as a battalion;

(c) "Central Para Military Forces" means the Central Para Military Forces constituted under,

(i) the Central Reserve Police Force Act, 1949 (66 of 1949);

(ii) the Border Security Force Act, 1968 (47 of 1968);

(iii) the Central Industrial Security Force Act, 1968 (50 of 1968); or

(vi) the IndoTibetan Border Police Force Act, 1992 (35 of 1992);

(d) "National Authority" means the National Disaster Management Authority established under sub-section (1) of section 3 of the Act;

(e) "National Disaster Response Force" means the National Disaster Response Force constituted under sub-section (1) of Section 44 of the Act.

(2) Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Constitution of Force : (1) The personnel deputed from the Central Para Military Forces by the Central Government in the Ministry of Home Affairs vide Order number 1/15/2002-DM-I/NDM-III(A), dated the 19th January, 2006 shall be deemed to have been deputed in the National Disaster Response Force under these rules.

(2) The Central Government may, in consultation with the National Authority, depute as and when required ,such number of personnel from the Central Para Military Forces to the National Disater Respones Force for the purposes of disaster management, having skills, capabilities and qualifications and experience of handling disaster and their management and such other technical qualifications as prescribed by the Central Government in this behalf:

Provided that in the case of non-availability of personnel with the required technical qualification and experience, the Central Government may appoint such personnel through deputation from other organizations or on contract basis.

(3) The personnel of a battalion deputed to the National Disaster Response Force under these rules shall remain ordinarily in such battalion for a period of five years:

Provided that not more than twenty-five per cent of the Force may be replaced in one year.

4. Superintendence, direction and control of Force: (1) The general superintendence, direction and control of the National Disaster Response Force shall vest in, and be exercised by the National Authority.

(2) The command and supervision of the National Disaster Response Force shall vest in the Director General of the National Disaster Response Force to be appointed by the Central Government.

(3) The Director General, National Disaster Response Force shall report to, and be under the administrative control, of the Vice-Chairman of the National Authority.

5. The responsibility, training skill duties, etc: The National Disaster Response Force shall be trained and equipped as a specialised force to carry out the disaster management related tasks and for dealing with threatening disaster situations or disaster.

6. Conditions of service : (1) The terms and conditions of service including disciplinary powers relating to the personnel deputed from the Central Para Military Forces to the National Disaster Response Force shall continue to be regulated by the provisions of the Act and the rules applicable to the respective Force and its services.

(2) The terms and conditions of service including disciplinary powers relating to the personnel appointed under the proviso to sub-rule (2) of rule 3 shall be governed by such rules as are applicable to the officers and employees of the Central Government of the same grade.

[F.No. 31-10/2006-NDM-II]

PRABHANSHU KAMAL, Jt. Secy.

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜಿನಿ

ಪಿ.ಆರ್. 29

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.